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GOVERNMENT GAZETTE

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SUPPLEMENT

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Public Health Department

Notification

V-9/69-DHS/GMC/7295

The following Bill as introduced in the Rajya Sabha is hereby published for the information of the public. Any person or public body desiring to submit an opinion on the provision of the bill may forward the same to the Secretary, Public Health Department, Secretariat, Panaji within fifteen days of the publication of this in the Official Gazette.

S. R. Shinde, Under Secretary (Health).

Panaji, 25th April, 1969.

5th Vysk. 1891.

Bill No. XVII of 1964

THE STERILISATION OF THE UNFIT BILL, 1964

(As introduced in the Rajya Sabha)

A

BILL

to prevent the procreation of human beings of undesirable physical and mental conditions by certain types of people.

Whereas it is expedient in the interests of the health and well being of society and the financial resources of the State, to prevent certain types of people suffering from highly undesirable physical

and mental conditions, from procreating human beings like unto themselves:—

Be it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

1. Short title, extent and commencement. — (1) This Act may be called the Sterilisation of the Unfit Act, 1964.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. — In this Act, unless the context otherwise requires, —

(i) "board" shall mean a board of medical experts constituted under this Act;

(ii) "Court" means the District Court of the district in which the board is situated;

(iii) "sterilisation" includes such medical or surgical treatment as would effectively prevent any person, male or female, from giving birth to a child;

(iv) "unfit" person shall mean any person, male or female, who suffers from such a type of leprosy or tuberculosis or insanity or imbecility, congenital or otherwise, that he or she is likely to give birth to children like himself or herself unless sterilised.

3. Constitution of the board. — The Government may, by notification in the Official Gazette, constitute a board for each district including metropolitan cities, with the district medical officer as the chairman and four registered medical practitioners as members, of whom two shall be officials and two shall be non-officials.

4. Procedure for sterilisation.—(1) Whenever information is given to the chairman of the board that any person is unfit, the board shall cause that person to be produced before it and examine him.

(2) On a written requisition by the chairman of the board to a magistrate of the first class having jurisdiction over the place where that person lives, summons shall be issued by that magistrate to that person for appearing before it and that person shall, by an order, be bound over to appear before the board:

Provided that the date fixed for appearance before the board shall not be less than twenty-one days from the date of such order.

(3) A copy of that order shall be furnished to that person forthwith free of cost.

(4) If on the date fixed for appearance before the board the person does not appear before it, the Chairman of the Board shall report the fact to the superintendent of police of the district.

(5) The superintendent of police shall thereupon order the arrest of that person by an officer not below the rank of an inspector of police for production before the board.

5. Examination of person.—(1) The board shall then proceed to examine the person with reference to his unfitness. If the majority of the board decide that he is unfit, a declaration to that effect shall be made in writing; but if the majority hold that he is not unfit he shall be discharged forthwith.

(2) A copy of such declaration shall be furnished to that person the same day free of cost.

6. Sterilisation of person.—After a declaration by the board that the person is unfit, he shall be sterilised on an appointed day;

Provided that the date fixed for the sterilisation of the unfit person shall not be less than twenty-one days of the declaration of unfitness referred to in section 5.

7. Appeals.—(1) Any person summoned by the magistrate to appear before the board and bound over shall have the right to appeal to the court against the order of the magistrate binding him to appear before the board.

(2) Any person who has been declared unfit by the board shall have the right to appeal to the court against such declaration.

(3) If, on hearing the appeal, the court finds that the order binding over the person or the declaration that he is unfit is untenable for any reason, that person shall be discharged and the board shall not proceed against that person any further.

(4) Notwithstanding anything contained in this Act, the court shall have the power to grant stay of the proceedings pending the disposal of an appeal.

(5) An appeal under this Act shall lie within twenty days of the order or declaration, as the case may be.

8. Penalty for false information.—Anyone who gives information against any person without any just or reasonable cause that that person is unfit with a view to induce the board to proceed under this Act, and if that information is found to be false or fraudulent or given with a view to annoy, intimidate, defame or disgrace that person, the person giving such information shall be liable to a fine of five hundred rupees.

9. Power to make rules.—The Central Government shall have the power to prescribe the method of sterilisation, the places where it should be done and the class of officers who will be authorised to perform sterilisation.

10. Saving.—No suit or prosecution or other legal action shall lie against any member of the board for anything which is in good faith done or intended to be done under this Act.

STATEMENT OF OBJECTS AND REASONS

In our country the idea of sterilisation has taken root and is being implemented for the control of population. The measure is resorted to on an entirely voluntary basis. Those suffering from leprosy, tuberculosis and mental diseases are however paying little heed to the scheme of planned parenthood, and as a result, while the normal and healthy persons in society are planning and limiting their families, the subnormal, unhealthy and irresponsible individuals go on procreating in an unrestricted manner. In the larger interest of the society, therefore, people suffering from leprosy, tuberculosis or mental diseases should not be allowed to procreate. Their compulsory sterilisation will achieve that purpose.

Hence this Bill.

S. PARANJPE

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules in regard to certain matters. These matters include the prescription of the method of sterilisation, the places where it shall be done and the class of officers who will be authorised to perform the sterilisation. The matters in respect of which such rules may be made are matters of procedure or administrative detail. The delegation of legislative power is thus of a normal character.

FINANCIAL MEMORANDUM

Under clause 3 of the Bill provision has been made for the constitution of a board for the sterilisation of the unfit. This will involve certain expenditure from the Consolidated Fund of India in the case of the Central Government. The amount involved cannot precisely be stated at this stage.